

NTSB Order No. EA-4944

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 31st day of January, 2002

Respondent .

7427

he had been convicted of a federal drug offense.² We will deny the appeal.

On December 21, 1998, respondent pleaded guilty in federal court to one count of a criminal indictment which charged him and others with Conspiracy to Launder Instruments, in violation 18 U.S.C. 1956(a)(1) and (h). He received, among other things, a five-year prison sentence. The indictment, as summarized by the law judge, "indicates that the conviction was directly related to Respondent operating a Gulfstream II aircraft to Mexico for the purpose of loading the aircraft with boxes of United States currency, which were profits of illegal drug trafficking" (Order at 2).³

Respondent's insistence that his guilty plea to this felony cannot serve as predicate for an action under FAR section 61.15 because he did not actually transport a controlled substance by aircraft is unavailing. His conviction plainly entailed a

²FAR section 61.15(a)(2) provides as follows:

§61.15 Offenses involving alcohol or drugs.

(a) A conviction for the violation of any Federal or state statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for—

* * * * *

(2) Suspension or revocation of any certificate or rating issued under this part.

³Because the respondent mistakenly believed that his 15-day period for responding to the Administrator's motion for summary judgment commenced on his receipt of the pleading, rather than on the date of its service (i.e., mailing), his opposition to the motion was not received before the law judge issued his order. Nevertheless, his appeal from the order raises essentially the

violation "relating" to the sale of illegal drugs. No more was required under a regulation that we have repeatedly held can support revocation without regard to whether an aircraft was actually used in the commission of the drug offense. See, e.g., Administrator v. Piro, NTSB Order No. EA-4049 (1993), aff'd Piro v. NTSB, 66 F.3d 335 (2nd Cir. 1995).

Also without merit is respondent's argument to the effect that the indictment's description of the circumstances supporting the criminal charge for which he was convicted does not amount to proof of the elements needed to justify the imposition of a sanction under FAR section 61.15. Respondent effectively forfeited his right to challenge (that is to say, demand proof by the government of) the indictment's account of the conduct underlying the offense to which he pleaded guilty. Allowing him to contest selective parts of the indictment here would constitute a collateral attack on his conviction that we are not empowered to entertain.⁴

(..continued)

same non-meritorious issues as were argued to the law judge.

⁴We likewise lack authority to immunize respondent for the criminal conduct described in the indictment, or represented by the conviction, on the ground that he was acting as a paid confidential informant for the government. We note, nevertheless, that respondent does not explain why, if he had been acting as a government agent, he pleaded guilty or why such a defense did not stave off incarceration.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied;
2. The order of the law judge granting summary judgment is affirmed; and
3. The revocation of respondent's airman certificate(s) shall begin 30 days after the service date indicated on this opinion and order.⁵

BLAKEY, Chairman, CARMODY, Vice Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

⁵For the purpose of this order, respondent must physically surrender his certificate(s) to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(f).